Deep Draft Navigation Cost Sharing

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Presentation Outline

- **Deep Draft Navigation: Cost Sharing – General**

- **Deep Draft Navigation: Cost Sharing -- Policy Guidance Letters**

- **Deep Draft Navigation: Cost Sharing -- Special Situations**

Deep Draft Navigation Module

Deep Draft Navigation

Cost Sharing - General

Cost Sharing - Non-Federal Costs

Construction for Commercial Navigation
Non-Federal Interests must pay -

- 10% of the cost of general navigation features (GNF) for channel depths of 20 feet or less.
- 25% of the cost of GNF for channel depths greater than 20 feet, but not in excess of 45 feet
- 50% of the cost of GNF for channel depths greater than 45 feet
  - 50% of the cost of “deep-draft utility relocations” to be borne by the utility owner, 50% by non-Federal project sponsor

Cost Sharing -- Non-Federal Costs (Cont'd)

Construction -- Section 101 WRDA 1986, as amended

- Lands, easements, rights-of-way, and relocations (LERR)
- Plus an additional 10% of GNF, reduced by the value of creditable LERR
- The additional 10% of GNF, less creditable LERR, can be paid, with interest, over a period not to exceed 30 years
- Local service facilities (LSF) required to produce claimed project benefits -- bulkheads, berthing areas, access channels, etc.

Cost Sharing -- Non-Federal Costs (Cont'd)

Operation and maintenance -- Section 101 WRDA 1986, as amended

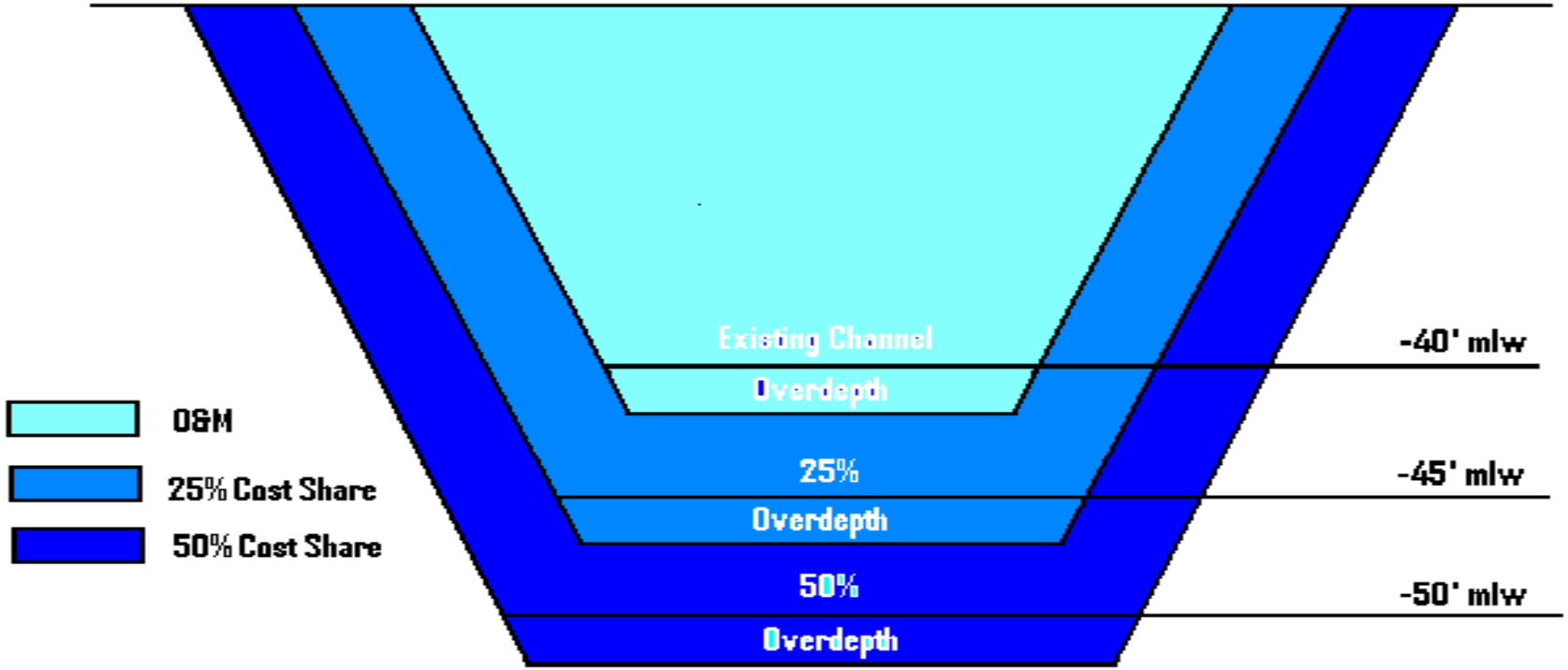
- 50% of the cost of incremental O&M dredging in excess of O&M associated with the project if the maximum channel depth was 45 feet.

- 100% of berthing area, dredging and disposal costs.

Zone Cost Sharing Example
ER 1165-2-131, Appendix G

Existing Project 40’ Authorized Depth

New Project 50’ Authorized Depth



Cost Sharing - Construction

Local Sponsor Share of Construction, in percent

Project depth	20 feet or less	>20 to 45 feet	Greater than 45 feet
General navigation feature**	10/10*	25/10*	50/10*
Mitigation	10/10*	25/10*	50/10*
Aids to navigation	0	0	0
Service facilities	100	100	100
LERR	100	100	100

*The second 10% is the amount of total cost of general navigation features that the local sponsor must pay over a period not to exceed 30 years. This amount may be offset by the value of LERR. If the project only involves widening, the cost share is the same as the existing project. However, if there have not been any improvements, the widening is assessed at the **naturally** controlling depth and entrance channels are governed by the deepest protected interior channel depth.

Local Service Facilities

- Terminal and transfer facilities
- Docks
- Berthing areas
- Local access channels
- Must be accessible and available to all on equal terms

Navigation Policy Guidance Letters (PGLs)

PGL 44, PGL 47, PGL 56, PGL 62

Policy Guidance Letter No. 44

Relocations and Removals at Navigation (Harbor) Projects

- NEW GUIDANCE WILL RESCIND PGL 44
- New Policy:

- NFS must perform all relocations, including utility relocations;

- for deep draft projects, NFS and Utility Owners share utility relocation costs 50/50; &

- “Utility” is defined as any pipeline, cable, or related facility located w/in the channel.

Policy Guidance Letter No. 47

- Cost Sharing for Dredged Material Disposal Facilities and Dredged Material Disposal Facility Partnerships

  - **Supersedes previous guidance on this subject**

  - **New and expanded upland and aquatic dredged material disposal facilities are cost-shared as GNF**

  - **Guidance on providing capacity for "non-Federal dredged material" in disposal facilities**

Policy Guidance Letter No. 56

- Section 207 of the Water Resources Development Act of 1996, Beneficial Use of Dredged Material
  - **May select a disposal method that is not the least cost (NED) option**
  - **The Secretary must determine that the incremental costs of the selected disposal method are "reasonable" in relation to *environmental benefits* to be realized**
  - **Non-Federal Interests pay 25% of the <u>incremental cost</u> in excess of the least cost (NED) disposal option**

Policy Guidance Letter No. 62

- Navigation (Harbor) Cost Sharing Policy Applications

  - **Clarifies guidance on implementing Section 101 of the Water Resources Development Act of 1986, as amended, for *Projects that don't involve channel deepening***

  - ***Channel deepening within one depth zone***

  - ***Channel deepening across depth zones***

Deep Draft Navigation Cost Sharing - Special Situations

- Bridge Alterations
- Single Owner Situations
- Land Creation
- Improvements Constructed by Non-Federal Interests

Bridge Alternations

- The bridge owner pays for betterments.

- Costs not assigned to the bridge owner (using Section 6 of the Truman-Hobbs Bridge Alteration Act, PL 647, as amended) are treated as GNF.

- A lot of work involved with getting this right. Excellent detailed example computations are in Appendix B of ER 1165-2-25.

Single Owner Situations

- **Single Owner Policy –** The Corps will not recommend Federal cost participation improvement that would serve a single individual, company, or association with restrictive membership.

- **Initial Single Owner -** There are special temporary cost-sharing rules that apply to a channel that currently serves a single owner, but with a prospect that another commercial navigation facility will soon locate on the channel.

- **Progressive Development -** There is also a special rule that allows single-owner facilities at the end of a multi-user branch channel as long as the extra cost to extend the channel is not "disproportionate."

Guidance on these special cases is found in the Policy Digest, paragraph 12-6 and in ER 1105-2-100, paragraph E-8.b.

Land Creation at Harbor Projects

- **Land Creation -** Land creation benefits shall not be considered in project formulation.

- **Special Cost-Sharing -** Special cost-sharing will be required for land creation associated with the NED plan.

- **Item of Local Cooperation -** Where project justification includes land creation requirements for port development, an item of local cooperation will be included requiring the non-Federal sponsor to retain fee ownership of those lands for the economic life of the project and regulate the occupancy of those lands to industries that depend upon water transportation.

Navigation Improvements Constructed by Non-Federal Interests

- **Non-Federal Interests can conduct feasibility studies and construct navigation improvements and receive reimbursement (Sections 203 & 204 WRDA 1986).**

- ***Congress must authorize cost sharing for navigation improvements constructed by non-Federal interests.***

- ***There are special provisions for reimbursement of the Federal share of work performed on an authorized project (Policy Digest, paragraph 12-1.e, 8-6, and 12-25).***

- ***Refer to ER 1165-2-120, ER 1165-2-122, and ER***

NAVIGATION COST SHARING SUMMARY

- Cost sharing is a function of project depth.
- Don’t forget the 10 percent over time.
- Special situations complicate things:
  - Bridge Alterations
  - Single Users
  - Progressive Development
  - Land Creation
  - Non-Federal Studies and Construction
- Getting the cost sharing right can be complicated and time consuming.
- Involve HQ early in the study – request clarification if policy guidance seems confusing.

Key Take Away Points

- "General Navigation Feature" is a special term that refers to the physical features that relate to navigation.
- Local sponsors are responsible for facilities such as docks, terminal and transfer facilities, berthing areas, local access channels and connecting infrastructure.
- There are special rules that cover relocations, removals, and single owner/progressive development situations.

Questions/Discussion